

APPEAL NO. 041465
FILED AUGUST 9, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 14, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; that the compensable injury includes a torn medial meniscus of the left knee; and that the claimant had disability from October 7, 2003, through the date of the hearing. The appellant (carrier) appeals the extent-of-injury and disability determinations and attaches new evidence to its request for review, which was not offered at the hearing. The appeal file contains no response from the claimant. The determination that the claimant sustained a compensable injury on _____, has not been appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed.

The carrier attached new evidence to its appeal, which was not offered into evidence at the hearing. The carrier asserts that the evidence was received from an anonymous source after the hearing date. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the evidence offered does not require that the case be remanded, as there is no indication that it would be admissible due to the fact that it cannot be authenticated.

Whether the claimant's compensable injury included a left torn meniscus and whether he had disability were factual questions for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and it is for the hearing officer to resolve such conflicts and inconsistencies in the evidence as were present in this case (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the complained-of determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Gary L. Kilgore
Appeals Judge